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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,265	02/26/2002	Kenneth J. Krauss	87356.2180	6422
30734	7590	04/19/2004		
BAKER + HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304			EXAMINER RIDLEY, RICHARD	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,265

Applicant(s)

KRAUSS ET AL.

Examiner

Richard Ridley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 11, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 11, 16 recite "...said fixed plate combines with said movable plate ..." it is unclear what is meant by the phrase "combines with". Perhaps the movable plate and the fixed plate are pivotally attached? What is meant by the phrase "combines with"?

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sackett '669.

Sackett clearly discloses the claimed limitations in a similar feeding device, the device comprising a(n):

- Conveyor belt (2)

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- Material inlet (1)
- Movable plate (fig. 1) having a hinged end and a free end pivotally mounted
- Hinge (fig. 1)
- Fixed plate (fig. 1)
- Power actuator or means for urging (4)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sackett '669 in view of Lovette '261.

Sackett discloses all of the claim limitations but does not disclose the use of a power actuator that is an air cylinder.

Lovette teaches the use of a power actuator (32) that is an air cylinder for the purpose of providing for a means to control the degree of opening and closing of a gate at the input of a conveyor belt (C3/L40-59).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a power actuator that is an air cylinder, as taught by Lovette, in the device of Sackett for the purpose of providing for a means to control the degree of opening and closing of a gate at the input of a conveyor belt.

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5. Claims 9, 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Sackett '669 in view of Clancy '852 and further in view of Stock '518.

Sackett discloses all of the claim limitations but does not disclose the use of a pair of side skirts or a rear end skirt.

Re clm 9, Clancy '852 teaches the use of a pair of side skirts for the purpose of providing for a means to guide the flow of material onto the belt and prevent spillage at the belt sides.

It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a pair of side skirts, as taught by Clancy, in the device of Sackett for the purpose of providing for a means to guide the flow of material onto the belt and prevent spillage at the belt sides.

Re clm 10, Stock '518 teaches the use of a rear end skirt for the purpose of providing for a means to control the flow of material onto the belt and prevent spillage at the rear backside of the belt.

It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the a rear end skirt, as taught by Stock, in the device of Sackett for the purpose of providing for a means to guide the flow of material onto the belt and prevent spillage at the backside of the belt.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

➤ US patent 6,199,684 by Huth is particularly pertinent

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Ridley whose telephone number is (703) 306-5910. The examiner can normally be reached on Mon-Thur 7:00 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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A handwritten signature in black ink, appearing to read 'Richard Ridley', with a stylized flourish at the end.

Richard Ridley
8 April 2004

Richard Ridley
Examiner
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